

REMARKS

This is intended as a full and complete response to the Final Office Action dated November 3, 2009, having a shortened statutory period for response extended three months to expire on May 3, 2010. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1, 2, 4-16, and 18-20 remain pending in the application after entry of this response and are shown above. Claims 1-20 are rejected. Claims 3 and 17 have been cancelled by Applicant. Reconsideration of the rejected claims is requested for reasons presented below.

Claim 1 is amended to incorporate the subject matter of dependent claim 3. Claim 4 is amended to correct dependency. These amendments are not presented to distinguish a reference, thus, the claims as amended are entitled to a full range of equivalents if not previously amended to distinguish a reference.

Claim Rejections 35 U.S.C. § 103

Claims 1-4 and 6-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Howse et al* (WO 00/01236; hereinafter *Howse*) in view of *Salini et al* (*American Roentgenology*, 1988, 150(4), 735-743; hereinafter *Salini*). Applicant respectfully traverses the rejection.

Amended independent claim 1, recites, inter alia, wherein said particles are coated with a material which is a carrier for the pesticide or behavior modifying chemical.

Applicant submits that neither *Howse* nor *Salini* either alone or in combination discloses at least the aforementioned feature of amended independent claim 1. In particular it is submitted that the secondary citation to *Salini* does not remedy the deficiencies in the primary citation to *Howse*. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Howse* and *Salini* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Examiner has acknowledged that the claims as currently on file are novel over the cited prior art. In particular, there is no disclosure in *Howse* of particles which are unmagnetized becoming magnetized when subject to an electric or magnetic field. It is also submitted that there is no disclosure in *Howse* of particles which are coated with a material which is a carrier for the pesticide or behavior modifying chemical.

The particles of *Howse* either solely consist of magnetic particles (see page 5, lines 22 to 24) or alternatively, the magnetic particles of *Howse* are composite materials which comprise a core of an inert substance which is impregnated with and/or coated with the magnetic material. (See page 5, lines 24-27). The inert substrate may have a pesticide or a behavior modifying chemical impregnated thereon or associated therewith. There is no suggestion of the particles themselves being coated with a carrier material comprising a pesticide or behavior modifying chemical. Instead, *Howse* discloses that only the inert core material may have a pesticide or a behavior modifying chemical impregnated thereon associated therewith. Thus as outlined on page 2, lines 13 to 14 of the present application, the active ingredients contained in the inner core of a magnetically-coated particle are not easily accessible to the surface of the pest.

Incorporating the active ingredient into a coating on the particles enables the active ingredient to diffuse into the lipid layers of the insect cuticle and enter the body of the insect more easily than would otherwise be possible. Particles formulated with volatile semiochemicals remain on the surface of the insect acting as emitting sources and biopathogens are anchored onto the body of the insect for long periods thereby facilitating their invasion of the body tissues. The particles of the present invention therefore provide an improved method of exposing the insects to the pesticide or behavior modifying agent.

There is no teaching or suggestion in *Howse* of anything other than associating the inert core with a pesticide or a behavior modifying chemical. Certainly, there is no suggestion of coating the particles with a pesticide or a behavior modifying chemical. Moreover, there is no motivation to adapt the teaching of *Howse* to arrive at the present invention.

Salini is silent regarding coated particles. Therefore, even if the teachings of *Howse* and *Salini* were combined the skilled person would not arrive at the present invention.

As a result, *Howse* in view of *Salini*, fails to teach, show, suggest, or otherwise make obvious a method of controlling pests, comprising exposing a surface of a pest to a particulate composition containing particles of an initially unmagnetized material, which is capable of becoming magnetically polarized when subjected to an electric or magnetic field, said particles being associated with at least one pesticide or behavior modifying chemical, wherein said particles acquire their adhesive properties only when said particles are in contact with an outer surface of the pest, wherein said particles are coated with a material which is a carrier for the pesticide or behavior modifying chemical as recited in amended independent claim 1 and claims dependent thereon.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Howse*, in view of *Salini*, and further in view of *Westeen et al* (U.S. Patent No. 5,885,486; hereinafter *Westeen*). Applicant respectfully traverses the rejection.

Applicant submits that *Howse*, *Salini*, and *Westeen* either alone or in combination fail to disclose at least the aforementioned features of amended independent claim 1 and claims dependent thereon. In particular it is submitted that the secondary citation to *Westeen* does not remedy the aforementioned deficiency in the citation to *Howse* in view of *Salini*. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Howse*, *Salini*, and *Westeen* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

Westeen discloses a suspension of colloidal solid particles and a method for making the suspension. As noted by the Examiner, *Westeen* discloses the use of solid lipids as carrier agents for poorly water soluble drugs, for example, pesticides. It is however, submitted that if the teaching of *Howse*, *Salini*, and *Westeen* were combined, the skilled person would not arrive at the present invention. As outlined above in *Howse*, only the


inert core material is associated with a pesticide or a behavior modifying chemical. There is no suggestion of coating the particles with an active agent.

As a result, *Howse* in view of *Salini*, and further in view of *Westeen*, fails to teach, show, suggest, or otherwise make obvious a method of controlling pests, comprising exposing a surface of a pest to a particulate composition containing particles of an initially unmagnetized material, which is capable of becoming magnetically polarized when subjected to an electric or magnetic field, said particles being associated with at least one pesticide or behavior modifying chemical, wherein said particles acquire their adhesive properties only when said particles are in contact with an outer surface of the pest, wherein said particles are coated with a material which is a carrier for the pesticide or behavior modifying chemical as recited in amended independent claim 1 and claims dependent thereon.

In conclusion, the references cited by the Examiner, alone or in combination, do not teach, show, or suggest the invention as claimed.

Having addressed all issues set out in the Final Office Action, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,

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